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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,922	04/14/2006	Karsten Gerving	521.1044	5289
<div>23280 7590 07/05/2007 DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018</div>				
			EXAMINER FISHMAN, MARINA	
			ART UNIT 2832	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,922

Applicant(s)

GERVING, KARSTEN

Examiner

Marina Fishman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/14/2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General status

1. This is a First Action on the Merits. Claims 1 - 10 are pending in the case and are being examined.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "arc splitter stack being **interchangeable** with the cooling plate' as recited in Claim 5, and 'the arc quenching device being either an insertable cooling plate or an arc splitter stack **but not both**' as recited in Claim 9", must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The amendment filed 06/15/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "the arc splitter stack being **interchangeable** with the cooling plate" as recited in Claim 5, and "the arc quenching device being either an insertable cooling plate or an arc splitter stack **but not both**" as recited in Claim 9".

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

4. Claim 6 is objected to because of the following informalities: in line 4 "support outer legs the arc quenching device." Should be corrected. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Uchida et al. [US 5,589,672].

Uchida et al. disclose an electrical switching device comprising:

- a housing [12] having interrupting chambers [Figure 20];
- a cover [not numbered] capable of closing the housing; and
- externally accessible terminal [4] contacts being secured in position in the housing;
- each interrupting chamber having disposed therein an arc quenching device [2, 14] and a stationary switching contact [7] for a cooperating movable switching contact [1];
- the housing and the cover having formed therein guide and retaining elements [Figure 20] configured to retain the arc quenching devices, wherein the arc quenching device is alternatively, one of arc splitter stack [2] and cooling plate [22], the arc splitter stack being interchangeable with the cooling plate [the disclosed circuit breaker can function with cooling plate 22 and/or with splitter plates 2].

It is noted that the phrase "the arc splitter stack being interchangeable with the cooling plate" is interpreted to mean – the arc splitter stack can alternatively be used in place of cooling plate--.

7. Claims 5, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto [US 6,703,575].

Yamamoto discloses an electrical switching device comprising:

- a housing [6] having interrupting chambers [Figures 1, 5];
- a cover [20] capable of closing the housing; and
- externally accessible terminal [4] contacts being secured in position in the housing;
- each interrupting chamber having disposed therein at least one arc quenching device and a stationary switching contact [3] for a cooperating movable switching contact [1], the housing and the cover having formed therein guide and retaining elements [6a,20a,b] for both insertable cooling plates [7, plates next to the contacts] and arc splitter plate [7, remaining plates] stacks defining the arc quenching devices, the arc splitter stacks being interchangeable with the cooling plates.

Regarding claim 6, Yamamoto discloses the guide and retaining elements [6a] include inner walls of the housing laterally bounding the interrupting chambers [Figures 1,2] and first retaining elements [20a,b] of the cover [20], the inner walls being configured to support outer legs of the arc quenching device, and the first retaining elements configured to further holding down the arc quenching device [Column 6, lines 12 +].

Allowable Subject Matter

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8. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed June 15, 2007 have been fully considered but they are not persuasive.

The Examiner wishes to point out that the specification fails to provide antecedent basis for "the arc splitter stack being **interchangeable** with the cooling plate" [Claim 5] and "the arc quenching device being either an insertable cooling plate or an arc splitter stack **but not both**" [Claim 9]. Further, the disclosed device is capable of supporting splitter plate stack as well as cooling plate at the same time, as the retaining element for the cooling plates and the retaining element for the splitter plate stack are arranged one behind the other [instant specification, 0008], and the housing and the cover are provided with guide and retaining elements for both cooling plates and arc splitter plate stacks. Thus, switching devices, which are otherwise identical in design, can optionally be equipped with arc-quenching devices in the form of cooling plates or in the form of arc splitter plate stack [0007]. Although both these elements [splitter plate stack and cooling plate] are not intended to be used at the same time, the instant invention is equipped and capable of accommodating both these devices at the same time. Thus the recitation of claim 9, "but not both" has no support in the specification. In addition, the disclosed structure of the splitter plate stack and

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cooling plate is such that insertion of splitter plate does not prohibit insertion of the splitter plate stack.

The Applicant has argued, "both Uchida et al. [nor] and Yamamoto fail to describe any feature configured to retain, alternatively, one of two types of interchangeable arc quenching devices. Nor does either device describe one or the other (but not both) of the two types of arc quenching devices located in each interrupting chamber while also having two sets of guide and retaining elements for both types of arc quenching devices." In view of the above discussion, the references of Uchida and Yamamoto, both disclose the claimed invention to the extent the recitation supported by the disclosure, i.e. they disclose the splitter plate stack and cooling plate and the devices can function with either one of them present at any one time.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Fishman
June 28, 2007


ELVIN ENAD
SUPERVISORY PATENT EXAMINER

29 JUN 07